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BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF CALIFORNIA

In the Matter of the Application of San Diego Gas & Electric Company (U 902 G) and Southern California Gas Company (U 904 G) for Authority to Integrate Their Gas Transmission Rates, Establish Firm Access Rights, and Provide Off-System Gas Transportation Services.	A.04-12-004 (Filed December 2, 2004)

COMMENTS OF
SAN DIEGO GAS & ELECTRIC COMPANY (U 902 G)
AND SOUTHERN CALIFORNIA GAS COMPANY (U 904 G)
ON PROPOSED DECISION AND ALTERNATE PROPOSED DECISION

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COMMENTS OF
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AND SOUTHERN CALIFORNIA GAS COMPANY (U 904 G)
ON PROPOSED DECISION AND ALTERNATE PROPOSED DECISION

In accordance with Rule 14.3 of the Commission's Rules of Practice and Procedure ("Rules"), San Diego Gas & Electric Company ("SDG&E") and Southern California Gas Company ("SoCalGas") hereby submit their comments on the Proposed Decision ("PD") of Administrative Law Judge ("ALJ") Wong and the Alternate Proposed Decision ("APD") of Commissioner Brown.[1/] SDG&E and SoCalGas strongly support the PD as it would bring the determination of gas flows into southern California within the jurisdiction of this Commission rather than leave this to the Federal Energy Regulatory Commission ("FERC"). Moreover, such gas flows would be based upon firm, tradable rights, and would not be subject to the pro rata and "use-it-or-lose-it" allocation methodologies currently utilized in those areas of the SDG&E/SoCalGas system where there currently is greater upstream pipeline capacity than downstream takeaway capacity. The Commission should not, however, require SDG&E and SoCalGas to provide copies of hydraulic gas flow models or other sensitive pipeline data to third parties, even under a "protective order," as this would necessarily include the conveyance of substantial customer-specific information and would present grave security risks to the pipeline system, the magnitude of which will never be known until an actual emergency results. In addition, the Commission should make other modifications to the PD as described herein and set forth in Appendix "A."[2] The Commission also should yet again retain the SoCalGas peaking rate because it merely recovers the cost of standing by to provide peaking service, thus preventing cost shifts from partial bypass customers to those customers incapable of bypass.

I.

THE COMMISSION SHOULD NOT REQUIRE SDG&E AND SOCALGAS TO PROVIDE COPIES OF FLOW MODELS AND OTHER SENSITIVE PIPELINE DATA TO THIRD PARTIES

At p. 72, the PD states that: "As for 'access to all cost and engineering information,' we agree with those parties who request that SDG&E and SoCalGas should provide copies of this kind of information to the requesting parties." The PD goes on to state that utility concerns that this information is too sensitive to provide can be adequately addressed in the "'agreed upon protective order' that binds the requesting party and the utility." As discussed below, gas transmission system flow models and other sensitive pipeline data include security-related and voluminous customer-specific information that cannot be adequately protected once such materials leave the control of the utility; the risks of sabotage or other catastrophic events therefore outweigh the need to provide actual copies of such materials. There are more prudent alternatives to assure potential gas suppliers that the model results are accurate while minimizing security risks.

Since the terrorist attacks of September 11, 2001, the California utilities and the pipeline industry generally have significantly tightened their security procedures to ensure that no information can be made public that would allow terrorists to know the most critical parts of the utility transmission system. Utility hydraulic gas flow models permit the user to pinpoint critical pipeline and compressor operating data that would be extremely valuable in planning an attack on the utility system. Other critical pipeline information, such as flow diagrams and specific operating parameters, could also be used to identify the points on the utility system where an attack would have the greatest impact on utility operations. Thus, this information is closely guarded by the California gas utilities to preserve the security of the utility system.

1/ Since the PD and APD treat matters other than the SoCalGas peaking rate in an identical fashion, references herein to the PD on matters other than the peaking rate apply equally to the APD.

2/ Since SDG&E and SoCalGas are proposing that the APD be rejected entirely in favor of the PD, they are not proposing any specific modifications to the APD.

In addition, utility gas flow models contain voluminous customer-specific information, including individual customer consumption data and usage patterns. Such information would be extremely valuable to a marketer or gas supplier seeking to sell gas to utility customers. The utilities have zealously protected such information, in accordance with Commission policies requiring that such information be kept confidential absent written customer consent.[3/]

Providing gas flow models and other sensitive pipeline information to third parties would therefore jeopardize the security of the utility system and the confidentiality of customer-specific information. SDG&E and SoCalGas have asked many pipelines whether they allow such materials to leave their possession and control and they all have confirmed that they do not and that they would share the concerns of SDG&E/SoCalGas in this regard. While the PD would attempt to address such concerns under a "protective order," the utility loses control of this information once it leaves utility offices. Should a recipient of such information let it be lost or stolen, security over this critical data can be forever compromised because there is no way to "unring the bell" after such information gets into the public domain. SDG&E and SoCalGas are not suggesting that potential gas suppliers seeking access to the SDG&E/SoCalGas system would intentionally convey sensitive utility information to third parties that would knowingly allow this information to find its way into the public domain, but it is clear that, once the utility releases such information, it loses the ability to protect it. For example, if a gas supplier hires a consultant to run the gas flow model, as they have said they would, the consultant would need to take extreme security precautions to ensure that this information is not released into the public domain inadvertently, including: using this information only in a highly secure building environment, establishing computer security sufficient to prevent hacking into the consultant's computer, ensuring that this information cannot be accessed by somebody entering the consultant's office, etc.

While SDG&E/SoCalGas could sue a party who violates an agreement to keep this information confidential, they would have a difficult time proving "damages" until a resulting

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3/ *See*, *e.g*.: D.97-12-088, 1997 Cal. PUC LEXIS 1139 at *196 ("A utility shall provide customer information to … unaffiliated entities … only with prior affirmative customer written consent"); D.99-09-002, 1999 Cal. PUC LEXIS 579 at *16-17 ("[W]e wish to protect the utility's release of customer-specific information, except where the customer has consented in writing to the specific disclosure"); D.01-07-032, 2001 Cal. PUC LEXIS 540 (denying request of California Narcotic Officers' Association that utilities release customer information to law enforcement officers in the emergency event actually occurs. Moreover, from a public safety perspective, it does no good at all to be able to recover monetary damages from a third party (if it even has the financial wherewithal to pay such damages) if the security breach caused the loss of life or limb of employees, customers, or the public in general.

The PD does not explain why third party suppliers cannot adequately review such information and observe model runs at the utility offices, as is the practice currently. In such meetings, SDG&E and SoCalGas provide detailed information regarding assumptions and pipeline operations verbally to third-party gas suppliers and run the gas flow model in their presence as requested. Moreover, the utility provides the actual results of the requested model runs, but without including the specific customer information and without releasing a copy of the model itself. Until potential gas suppliers can demonstrate why such an approach is unacceptable, the risks associated with providing copies of such material to outside persons clearly outweigh any public benefit.

The PD would preclude the utility from pursuing an option that is permitted under the Commission's Rules for models that are used in Commission proceedings that do not even pose security risks. Under Rule 10.4(d)(1), if a party requests access to a computer model used by the utility as part of its case, the utility may, at its election, "make the requested runs on its own computer." This is exactly how SDG&E and SoCalGas process requests by potential gas suppliers seeking to understand the utility facilities and costs associated with delivering new supplies at a particular point on the utility system. If this procedure is adequate in cases where the model would **not** divulge voluminous customer-specific information and would **not** create significant security risks, it should be more than adequate for those cases where customer information and security are at issue.

Furthermore, hydraulic flow models of the SDG&E and SoCalGas gas transmission system are highly complex and it requires extensive knowledge of the system to properly perform an analysis. This knowledge includes operating parameters of all of the utilities' facilities, such as minimum and maximum operating pressures, design conditions, modes of operation and much more. Release of flow models to potential gas suppliers can result in

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absence of legal process such as a warrant or subpoena duces tecum approved by a judge). *See*, *also*, Customer List OII, D.90-12-121, 39 CPUC 2d 173 (1990).

erroneous analyses due to misunderstanding the operations of the utilities' facilities. What seems like a successful analysis to a potential gas supplier might, in fact, be inaccurate in reality.

Thus, rather than require SDG&E and SoCalGas to provide copies of such materials to requesting parties, the Commission should allow the utilities to work with potential new gas suppliers as they do now by performing model runs they request. Should any party believe that the utility is not running the models on a straightforward basis, the party should be permitted to contact the Energy Division which can investigate the matter further. Of course, SDG&E and SoCalGas would allow Commission staff to observe the particular model runs at issue and, if necessary, provide copies of input assumptions and other relevant materials to the Commission as confidential. This approach is superior to the one adopted by the PD and therefore SDG&E and SoCalGas urge the Commission to modify the PD as proposed in Appendix "A" hereto.

II.

THE COMMISSION SHOULD MAKE CERTAIN OTHER MODIFICATIONS TO THE PD

SDG&E and SoCalGas believe that the PD has generally struck an appropriate balance among various intra-shipper issues. SDG&E and SoCalGas comment below, however, on just a few specific issues. While parties will likely advocate a variety of changes to the PD on intra-shipper issues, the PD does provide for a review 18 months after the FAR open season to address any problems that might have occurred. SDG&E and SoCalGas will also meet with interested parties prior to this 18-month review to obtain input on how the open season process can be improved in the future and whether any significant unforeseen issues have arisen that might need to be addressed.

At p. 100, the PD adopts a modified version of the proposal made by Sempra Energy LNG ("SE LNG") to limit customer bids in Step 2 of the open season, stating that "[t]he limit on how much end users can bid at any individual receipt point in Step 2 shall be limited to the historical utilization by month of each individual receipt point using the five-year average from January 1, 2001 through December 31, 2005, less any Step 1 set aside capacity." By limiting the amount of capacity available in Step 2 to historical utilization at each receipt point, the PD would have the apparently unintended effect of reducing potential customer bidding rights in Step 2. In fact, in conjunction with the set-aside for electric generation ("EG") customers (discussed below), the PD would significantly reduce the capacity available in Step 2 to both core and noncore customers. It also should be noted that the PD's approach is a variant of SE LNG's proposal that was aimed at preserving a greater level of existing capacity for new suppliers like SE LNG in Step 3. Since SE LNG would obtain a set-aside at Otay Mesa under the PD, SE LNG's concern no longer exists. Accordingly, the PD should be revised to adopt the 75% capacity limit proposed by SDG&E and SoCalGas to help ensure that customers have greater bidding rights in Step 2 of the open season.

At p. 92, the PD would allow EG customers to receive a set-aside to match their firm upstream pipeline commitments. While SDG&E and SoCalGas have noted in this proceeding that this is an intra-shipper issue, the Commission should be aware that this modification to the SDG&E/SoCalGas FAR proposal would discriminate among noncore customers in favor of EG customers. Moreover, SDG&E and SoCalGas do not agree with the PD that such a set-aside is needed for "reliability" purposes, since EG customers will continue to be able to buy gas either at the border or at the citygate, so there is no question that they will be able to purchase gas supplies to meet their reliability concerns.[4/] SDG&E and SoCalGas therefore recommend that this set-aside not be adopted.

Should the Commission nevertheless decide to adopt the EG set-aside, the set-aside should be limited to those upstream pipeline commitments that have been specifically identified by the Commission as having been acquired for electricity generation purposes. This would justify such set-asides on a basis that is analogous to core set-asides and set asides for long-term intrastate contracts specifically approved by the Commission. This would also preclude EG customers from subscribing to excessive upstream capacity just to obtain a greater FAR set-aside. As noted above, there would need to be clarification that the set-aside is truly limited to EG use and does not allow an entity that both owns EG facilities and markets gas to obtain a set-aside for the marketing function. Accordingly, if the Commission adopts the EG set-aside, it should: limit EG set-asides to Commission-recognized upstream pipeline contracts that have been entered into for electric generation purposes; require that the set-aside not exceed what is reasonably determined to be necessary for plant usage; and limit the EG set-aside to those firm

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[4/] *See*, *e.g.*, Watson/IP/CCC/CMTA/Beach, Exh. 44, pp. 11-12, where Mr. Beach explains how a "rational" gas buyer for an EG customer would utilize a mix of gas purchases, including seasonal FAR and citygate purchases to meet peak needs.

upstream contracts that extend more than 18 months into the 36-month cycle (similar to the core set-aside).

SDG&E and SoCalGas agree with the PD that the "Joint Proposal" can be readily integrated into a system of FAR and do not oppose the PD's approach to accomplish this. SDG&E and SoCalGas note that the PD at p. 74 confirms that the firm rights obtained by a "displacement" funding party "shall be subject to nominations at other receipt points in the same transmission zone." Just to be absolutely clear, however, SDG&E and SoCalGas propose a minor modification to the PD to confirm that the rights received by a "displacement" funding party do not diminish primary FAR held by other parties, such as FAR the core would receive as a set-aside in the initial open season to match its current upstream pipeline contracts at the Blythe/Ehrenberg receipt point.

III.

THE APD INCORRECTLY CONCLUDES THAT THE PEAKING RATE SHOULD BE ELIMINATED

In discussing the peaking rate, the APD makes several determinations that are not supported by the record in this proceeding and run afoul of prior Commission decisions. The APD observes, for example, that "the peaking rate has broadened the regulatory gap and acted as a barrier to competition."[5/] It concludes that "[i]f the customer wants to take partial service from a competing pipeline, the company is discouraged from doing so because of the preemptive, punitive peaking rate."[6/] In addition, the APD determines that adoption of system integration necessitates elimination of the peaking rate and that the peaking rate has operated as a barrier to siting of generation plants in SoCalGas' territory. The APD dismisses the concern expressed by parties that elimination of the peaking rate will harm captive ratepayers, speculating that the increase in competition that will purportedly occur will offset any such harm. Finally, the APD suggests that other tools available to SoCalGas, such as the ability to discount long-term contracts and a possible re-design of rates, obviate the need for the peaking rate. Neither the record in this proceeding, nor long-standing Commission policy, supports these conclusions.

5/ APD, p. 120.

6/ *Id*, p. 121.

As SDG&E and SoCalGas explained in detail in their Opening Brief, the Commission originally established the peaking rate in order to address differences in the rate design of the utility and interstate pipeline companies that might have encouraged noncore customers to engage in uneconomic partial bypass of the utility system.[7/] Because, under SoCalGas' standard tariff, customers contribute to fixed system costs on a class-average volumetric basis, partial bypass customers paying standard tariff rates would receive system benefits, but system costs would be borne disproportionately by captive ratepayer customers.[8/] In order to ensure delivery of appropriate price signals concerning the actual cost to the utility of providing peaking service, and to create a level playing field between the utility and interstate pipelines, the Commission adopted the residual load service ("RLS") tariff, the pre-cursor to the current peaking tariff, in 1995.[9/] It explained "[o]ur proposal merely internalizes the externality cost a customer imposes on the general body of ratepayers by its decision to bypass under the current regulatory framework."[10/]

Since adopting the peaking rate in 1995, the Commission has repeatedly reaffirmed the existence of this "regulatory gap" between the class-average volumetric rate structure of the utility and the SFV rate structure of the interstate pipeline companies, and has acknowledged that this "regulatory gap" creates an inherently skewed market, which, if not remedied through application of some type of equalizing measure, would encourage uneconomic partial bypass of the utility system.[11/] The difference in the utility and interstate pipeline rate structure that served as the basis for developing the peaking rate continues to exist today; the need to ensure that

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7/ *See*, Opening Brief of SDG&E and SoCalGas, pp. 99-105. Interstate pipeline companies charge Straight Fixed Variable ("SFV") rates, which recover the majority of fixed costs through a demand charge and impose a small or no volumetric charge. SoCalGas, on the other hand, recovers all fixed costs of providing service through class average volumetric rates. (*Id*. at p. 99). In addition,

8/ SoCalGas is obligated to serve *all* customer load (including peaking load) and must therefore size its system in order to serve this total demand. Thus, partial bypass of the SoCalGas system by noncore customers does not result in a decrease in SoCalGas' fixed costs, it merely shifts costs to the remaining captive customers and spreads those costs over a smaller amount of throughput.

9/ *See*, D.95-07-046, 1995 Cal PUC LEXIS 596, p. *21-23.

10/ *Id*. at p. 22.

11/ *See* D.04-09-022, *mimeo*, p. 71 ("The peaking rate has been reviewed on four separate occasions and the Commission has continued to find that the peaking rate properly discourages uneconomic partial bypass of the SoCalGas system and thereby protects captive core customers.").

captive utility ratepayers are not harmed by this "regulatory gap" has not diminished. As ALJ Wong correctly noted in his PD, "[t]he evidence presented in this proceeding has not changed the circumstances behind the adoption of the RLS and peaking rate tariff. We still want to encourage pipeline competition, but we need to ensure that bypass does not harm remaining ratepayers, especially when the bypassing customer returns to SoCalGas for some or all of its gas needs."[12/]

Thus, there exists no basis, after over a decade of finding that the peaking rate effectively closes the regulatory gap and prevents uneconomic bypass, for the determination in the APD that the peaking rate actually *broadens* the regulatory gap. Rather than creating a barrier to competition and constituting a "punitive" measure, the peaking rate provides "the necessary tools to engage in a more competitive market with the objective of preventing uneconomic bypass by conveying efficient price signals to consumers."[13/] Accordingly, the peaking rate should be maintained.

The APD dismisses the concern raised by the Commission in prior proceedings that elimination of the peaking rate will unfairly shift costs to captive customers. It appears to accept the arguments of opponents to the peaking rate that elimination of the peaking rate will increase pipeline-to-pipeline competition, thereby bringing more gas supplies into California and lowering gas prices, which will in turn offset the harm caused by the cost-shift to captive ratepayers.[14/] As an initial matter, SDG&E and SoCalGas point out that the interests of those parties advocating elimination of the peaking rate – *i.e.*, the interstate pipelines and large noncore customers – are not aligned with those of the Commission. Despite their ostensible support for competition and its corresponding benefits, it is clear that these parties have little interest in the Commission's goals of promoting *fair* competition and ensuring that bypass is economic. Rather, these parties continue to seek the conditions that are most favorable to their individual business interests, with little or no regard for whether those conditions are equitable or in the public interest. The Commission has previously recognized that, in fact, it is the positions taken by these parties that are anti-competitive, observing in D.00-04-060 that the arguments of parties opposed to the peaking rate were intended "to persuade the Commission to change

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12/ PD, p. 121.

13/ D.95-07-046, *supra,* note 9, p. *22.

14/ APD, pp. 122-123.

SoCalGas' tariffs" in order to avoid the need to "compete based on price, quality of service, meeting customers' needs, [and] better product."[15] The Commission noted that "[i]t is not SoCalGas that refuses to compete, it is the pipelines."[16] The Commission further recognized that the pipelines' refusal to compete with SoCalGas "is their choice and they should not be heard to complain."[17]

While SDG&E and SoCalGas recognize the importance of bringing new gas supply into California, they note that the Commission must exercise prudent judgment in determining what measures should be undertaken in order to achieve this objective. The Commission must ensure that efforts to increase competition result in *fair* competition and that actions taken to attract new supply sources do not promote uneconomic bypass or cause harm to utility ratepayers. The APD's conclusion that in order to promote competition the Commission should embrace uneconomic bypass and require subsidization of partially bypassing noncore customers, is plainly at odds with long-standing Commission policy and fundamental principles of fairness. Moreover, assuming, *arguendo*, that elimination of the peaking rate would actually result in increased competition, the record does not provide a clear understanding of how or at what point the benefits of competition would be quantified for purposes of determining whether they are adequate to justify the certain rate increase for captive ratepayer customers. Thus, given the clear inconsistency with prior Commission decisions and the insufficiency of the evidence in the record concerning the actual benefits arising from the potential increase in competition, this portion of the APD must be rejected.

The APD is similarly incorrect in concluding that due to the Commission's adoption of system integration, "[f]airness dictates that the peaking rate should be eliminated."[18] In D.06-04-033, the Commission made clear that receipt of supply at the Otay Mesa receipt point by SDG&E for re-delivery to the SoCalGas system is <u>not</u> analogous to a typical partial bypass situation in which the peaking rate applies.[19] The Commission concluded that since Otay Mesa is a joint SDG&E/SoCalGas receipt point, gas flows through Otay Mesa should be treated in a manner identical to gas flows through all other receipt points on the SoCalGas system (*i.e.*, not

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[15] D.00-04-060, 2000 Cal. PUC LEXIS 396, p. *138.
[16] *Id*.
[17] *Id*.
[18] APD, p. 122.
[19] D.06-04-033, *mimeo*, p. 54.

made subject to the peaking rate).[20] The Commission also recognized a distinction between SDG&E's receipt of gas at the Otay Mesa joint receipt point and system bypass in terms of recovery of transmission costs from SDG&E customers. It observed that under system integration, "[t]he customers of both SDG&E and SoCalGas continue to pay a share of the SoCalGas transmission costs. As a result, there is no bypass of the SoCalGas transmission costs."[21] Thus, the conclusion in the APD that adoption of system integration requires elimination of the peaking rate is at odds with the Commission's determinations in D.06-04-033 and must therefore be rejected.

As justification for its elimination of the peaking rate, the APD reasons that SoCalGas has other tools at its disposal to prevent uneconomic partial bypass, such as the ability to offer discounted long-term transportation agreements.[22] This reflects a misunderstanding of the purpose served by discounted long-term contracts. The ability to offer competitively-priced long-term contracts is an important option for the utilities in competing with interstate pipelines for potential *total* bypass customers. As a practical matter, however, discounted contracts are not an effective means of offsetting the harm to ratepayers caused by *partial* bypass. As SDG&E and SoCalGas explained, the availability of discounted contracts does not ensure that appropriate price signals regarding the cost of *partial* bypass are sent to the market.[23] Indeed, it is only through the peaking rate that the utility fully recovers the cost of standing by to serve the peaking load of partial bypass customers. In the absence of the peaking rate, partial bypass customers will pay a below-cost rate for peaking service. This would mean that in offering discounted long-term contracts in order to attract or retain customer load, the utility would be forced to offer much more substantial discounts, which would shift costs to the remaining utility ratepayers.

The APD also erroneously concludes that the peaking rate has discouraged electric generators from siting their facilities within SoCalGas' territory.[24] This determination is without basis and is wholly unsupported by the evidence in the record. The APD appears to acknowledge the paucity of supporting evidence contained in the record, noting that "[n]one of

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[20] *Id*.
[21] *Id*. at p. 54.
[22] APD, p. 123.
[23] SDG&E/SoCalGas OB, pp. 113-114; RB, pp. 60-61.
[24] APD, p. 122.

the electric generators that were referenced in the various exhibits submitted any testimony as to the reasons why their plants were sited outside of SoCalGas' territory."[25] It nonetheless accepts the argument that the peaking rate has discouraged siting of electric generators within SoCalGas' service area, pointing to the fact that affiliates of SDG&E and SoCalGas have located outside the utility service area as proof that the peaking rate acts as a barrier. In reaching this conclusion, the APD ignores the relevant in favor of the immaterial. The decision by a SDG&E/SoCalGas affiliate to locate facilities outside of the SoCalGas service area is no different than a siting decision by *any* entity, and certainly does not provide any substantiation for the claim that the peaking rate is a factor in such decisions.

By contrast, the analysis and conclusion on this point contained in ALJ Wong's PD is far more reasonable and rational. ALJ Wong focuses on the evidence contained in the record, pointing out that the record shows little more than that a greater number of generating units have been built in PG&E's territory than in SoCalGas' territory.[26] He notes that the testimony contains "a number of other significant reasons why generating plants decide to site at various locations," and that no testimony by electric generators was offered to corroborate the claim that the peaking rate acts to discourage siting within the SoCalGas service territory.[27] Given the dearth of evidence in the record to support the claim that the peaking rate has discouraged electric generators from siting their facilities within SoCalGas' territory, the conclusion contained in the PD is the *only* justifiable conclusion. Accordingly, the Commission should not adopt this aspect of the APD.

Finally, the APD incorrectly suggests that redesign of SoCalGas' rates is the optimal approach to eliminating the "regulatory gap" that exists between its class-average volumetric rates and the interstate pipelines' SFV rates.[28] SoCalGas customers, however, have demonstrated little enthusiasm for a fixed demand charge rate structure. Past proposals involving such rate structures were highly controversial and were ultimately abandoned. To the extent SoCalGas' customers indicate no desire to adopt a wholesale change to the current rate structure, SoCalGas perceives little benefit in doing so. Because the issue of the "regulatory gap" arises only in the context of partial bypass service, a complete redesign of rates to adopt a

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[25] *Id*. This language also appears in the PD.
[26] PD, p. 124.
[27] *Id*.
[28] APD, p. 123.

fixed demand rate structure would serve no purpose outside this context. Moreover, as a practical matter, the alignment between utility and interstate pipeline rates that would occur if the utility adopted a fixed demand rate structure is already accomplished by the peaking rate. Indeed, the current peaking service tariff may be viewed as an extension of the interstate pipelines' SFV rate structure. In essence, the peaking rate is the application of the SFV rate design to the remaining low load factor throughput of the partial requirements customers. Thus, the new rate structure envisioned by the APD would mimic the rate structure currently in place for partial bypass customers, and would therefore provide little additional benefit, but would be imposed upon all customers, including those who do not support it. This proposal makes little sense and should therefore be rejected.

IV.

CONCLUSION

ALJ Wong should be commended for producing a comprehensive PD that strikes a proper balance among the divergent interests in this proceeding. SDG&E and SoCalGas did not obtain everything they requested in this proceeding, and many other parties no doubt will criticize specific elements of the PD because they requested certain treatment the PD did not provide. Overall, the Commission should realize that the PD takes an important step to ensure that the determination of gas flows into southern California are based upon firm, tradable rights established by this Commission rather than by the FERC and eliminates the arbitrary pro rata and "use-it-or-lose-it" allocation methodologies currently utilized where more gas is attempting to enter the utility system than the utility can redeliver. However, the PD must be modified to protect sensitive pipeline and customer data and also should be modified further as addressed in

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Appendix "A." The Commission should not eliminate the peaking rate and therefore should reject the APD.

Respectfully submitted,

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APPENDIX A

SUBJECT INDEX AND
PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

I. SUBJECT INDEX

P. 72 – Delete the following language: "As for 'access to all costs and engineering information,' we agree with those parties who request that SDG&E and SoCalGas should provide copies of this kind of information to the requesting parties. The utilities are concerned that this information may be sensitive and that copies should not be given out. We believe, however, that such concerns and adequate safeguards can be provided in the 'agreed upon protective order' that binds the requesting party and the utility."

The language quoted immediately above should be replaced with the following:

"We agree with SDG&E and SoCalGas that they should not be required to provide copies of hydraulic gas flow models and other sensitive pipeline information to potential new gas suppliers because this would provide the supplier with detailed customer-specific information and because it is critical that the utility retain full control of any information that could pose a security risk to the utility system. It should be adequate for the utilities to run the hydraulic gas flow models for potential gas suppliers in their presence at utility offices and to verbally describe the assumptions and parameters used for this modeling. However, should any supplier have doubts about the accuracy of the utility modeling, they can contact the Energy Division which will investigate the matter. Of course, SDG&E and SoCalGas would be required to provide all data and models to the Commission as might be necessary for the Energy Division to confirm the model's accuracy.

P. 74 – The following sentence should be added at the end of the first full paragraph immediately following the words " … in the same transmission zone.":

"Thus, any firm rights obtained by a funding party that funds displacement capacity will not diminish the primary firm rights of other shippers in the same or any other transmission zone, such as core set-aside rights that the core would obtain at the Blythe/Ehrenberg receipt point in the Southern Zone to match current upstream core capacity contracts."

P. 91-92 – Starting at the bottom of p. 91, the paragraph that runs over to p. 92 should be deleted with the exception of the first sentence, and the following language should replace the deleted language:

> "We do not agree that a set-aside for EG customers is necessary for reliability purposes, because prudent EG customers will obtain firm rights in amounts necessary to match baseload needs, while acquiring seasonal rights or making purchases at the citygate for seasonal or peak needs. In addition, granting the set-aside requested by SCGC would discriminate among noncore customers in favor of EG customers. Accordingly, we will not adopt SCGC's proposed set-aside."

If the Commission decides to retain EG set-asides, the following language should be inserted as a new paragraph following the partial paragraph that ends with the language " … commitments on the upstream pipelines":

> "We are concerned with providing EG customers with set-asides to match upstream pipeline commitments, no matter how large they might be, if this Commission has not previously confirmed the existence of the upstream contracts and found that they are reasonably necessary for electric generation purposes. Both core upstream contracts and long-term firm intrastate transportation contracts receiving set-asides are specifically approved by the Commission. Moreover, because some entities are both marketers and own EG plants, it is necessary to ensure that set-asides are provided only for EG plant purposes, that the EG set-aside be limited to those upstream pipeline contracts identified by this Commission as having been acquired for electricity generation, that the set-aside not exceed what is reasonably necessary for plant usage, and we will limit the EG set-aside to those firm upstream contracts that extend more than 18 months into the 36-month cycle, which is similar to the treatment of the core set-aside."

P. 100 - The following language should be deleted: "In achieving a balance between the competing interests, we will adopt a slight variation on Sempra LNG's proposal. The limit on how much end users can bid at any individual receipt point in Step 2 shall be limited to the historical utilization by month at each individual receipt point using the five-year average from January 1, 2001 through December 31, 2005, less any Step 1 set-aside capacity."

The language quoted immediately above should be replaced with the following:

> "In achieving a balance between the competing interests, we will adopt the 75% capacity limitation proposed by SDG&E and SoCalGas. Since new gas suppliers such as Sempra LNG are receiving a set-aside if they are a "funding party" under the Joint Proposal as discussed in more detail above, it is not necessary to further limit end-use customer bidding rights in Step 2 in order to ensure that there will be sufficient capacity available in Step 3. The 75% limit will ensure that end-use customers will be able to have bidding rights approximately equal to their annual average usage, as explained by SDG&E/SoCalGas witness Watson in this proceeding."

II. PROPOSED FINDINGS OF FACT

(1) Requiring SDG&E and SoCalGas to provide potential gas suppliers with actual copies of hydraulic gas flow models and other sensitive pipeline data would result in the conveyance of detailed customer-specific information and would create grave security concerns should this information ever make its way into the public domain.

(2) SDG&E and SoCalGas should continue their current practice of performing hydraulic gas model runs for potential new gas suppliers and should provide detailed assumptions and parameters verbally to such suppliers at the utility offices.

(3) If a potential supplier has reason to doubt the assumptions, parameters, or use of the hydraulic gas flow model utilized by SDG&E and SoCalGas to estimate facilities and costs associated with the receipt of new supplies, the supplier should contact the Energy Division for further investigation. SDG&E and SoCalGas will cooperate fully with the Energy Division and provide the Energy Division with access, including copies, of any materials necessary for such an investigation, and such materials can be designated as confidential as provided by Section 483 of the California Public Utilities Code and General Order 66-C.

(4) If a funding party funds displacement capacity, the rights it obtains cannot diminish the primary firm rights held by other shippers on the utility system in the same or any other transmission zone.

(5) The 75% capacity limitation on Step 2 bidding rights proposed by SDG&E and SoCalGas will help ensure that end-use customers can obtain the firm rights they require since this approximates the annual average usage of end-use customers.

If the Commission decides to adopt the EG set-aside:

(6) The set-aside for EG customers to match firm upstream pipeline commitments shall be limited to those upstream contracts specifically identified by this Commission as reasonably necessary for EG plant usage.

(7) As with the set-aside for core customers, the EG set-aside to match firm upstream pipeline contracts shall be limited to contracts that extend more than 18 months into the three-year term of firm rights.

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing **COMMENTS OF SAN DIEGO GAS & ELECTRIC COMPANY (U 902 G) AND SOUTHERN CALIFORNIA GAS COMPANY (U 904 G) ON PROPOSED DECISION AND ALTERNATE PROPOSED DECISION** on all parties of record in A.04-12-004 by electronic mail and by U.S. mail to those parties who have not provided an electronic address to the Commission.

Dated at Los Angeles, California, this 20th day of November, 2006.

/s/ Becky Roberts
Becky Roberts

CORP10/LAW/DATA/DGILMORE/SI-FAR/COMM-PD 11.20.06

CALIFORNIA PUBLIC UTILITIES COMMISSION
Service Lists - Proceeding: A04-12-004 - Last changed: November 15, 2006

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